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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,254	06/15/2001	Hugh Boyd Morrison	RCA 89185	6997

7590 04/27/2005

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EXAMINER
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NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/868,254	<b>Applicant(s)</b> MORRISON ET AL.	
	<b>Examiner</b> Christopher R Nalevanko	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/20/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Alexander et al (6,177,931).

Regarding Claim 1, Alexander shows a method for operating a video processing apparatus comprising operating a computer application software program on said video processing apparatus (col. 5 lines 5-52, hardware and software used for displaying EPG guide and functioning apparatus), receiving, in connection with said computer application software program, an advertisement associated with a broadcast television program, causing said advertisement to be displayed (col. 4 lines 28-35, col. 14 lines 1-20, col. 19 lines 50-67, col. 20 lines 1-28, displaying advertisement information about upcoming shows or products), selecting said advertisement (col. 4 lines 28-35, selecting the program in the advertisement for viewing or recording), and operating said video processing apparatus in a video operating mode in response to said advertisement (col. 4 lines 28-35, selecting the program in the advertisement for viewing or recording).

Regarding Claim 2, Alexander shows that the system can communicate and perform productive functions (col. 5 lines 5-52, hardware and software used communicating with broadcaster and allowing user to select different functions).

Regarding Claim 3, Alexander shows that the advertisement information contains control information pertaining to time, channel, and recording functions (col. 4 lines 28-35, recording program associated with ad, lines 50-56, displaying channel and time data, col. 18 lines 1-12, access further information about programs and advertisements, col. 20 lines 12-36).

Regarding Claim 4, Alexander shows that control information comprises program data, and wherein time and channel data is determined using an electronic program guide in response to said program data (col. 5 lines 5-15, col. 7 lines 1-15, data associated with program from EPG, see fig. 1, 3-10).

Regarding Claim 5, Alexander shows that the step of operating comprising recording the program associated with the advertisement (col. 4 lines 28-35, recording program associated with ad, lines 50-56, displaying channel and time data, col. 18 lines 1-12, access further information about programs and advertisements, col. 20 lines 12-36).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schein et al U.S. Patent Application Publication No. 2002/0129366 discloses an electronic program guide with interactive areas.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 571-272-7299. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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